

NOT INCLUDED
IN BOUND VOLUMES

PMH
San Leandro, CA

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

PARAMEDICS PLUS, LLC

Employer

and

Case 32-RC-132094

NATIONAL ASSOCIATION OF GOVERNMENT
EMPLOYEES AFFILIATED WITH SERVICE
EMPLOYEES INTERNATIONAL UNION

Petitioner

and

NATIONAL EMERGENCY MEDICAL SERVICES
ASSOCIATION

Intervenor

and

UNITED EMS WORKERS, AFSCME LOCAL 4911

Intervenor

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board, by a three-member panel, has considered objections to a mail ballot election held August 4 to August 18, 2014, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 201 for the Petitioner, 33 for Intervenor National Emergency Medical Services Association (NEMSA), 11 for Intervenor United EMS Workers,

and 1 against participating labor organizations, with 2 void ballots and 1 challenged ballot, an insufficient number to affect the results.

The Board has reviewed the record in light of the exception¹ and brief, has adopted the hearing officer's findings and recommendations² and finds that a certification of representative should be issued.

CERTIFICATION OF REPRESENTATIVE

¹ Intervenor NEMSA's unbriefed exception fails to cite any specific errors in the hearing officer's report or offer any argument for rejecting her conclusions. The exception merely states, in relevant part:

A careful examination of the record clearly shows that the hearing officer's conclusions were in error and not based on the factual record and testimony appearing therein, to the contrary, the record and witness testimony, both from intervenor and petitioner witnesses along with the volumes of exhibits, show the exact opposite of what the hearing officer concluded and provide substantive evidence of petitioner NAGE's grievous misconduct.

Nevertheless, we have reviewed the hearing officer's findings, and we agree with her recommendations to overrule NEMSA's Objections 2, 3 and 4.

² In adopting the hearing officer's recommendation to overrule Objection 4, we rely solely on the hearing officer's finding that no objectionable promises were made during the critical period regarding lower dues for part-time workers. We disavow any suggestion in the hearing officer's report that a demonstrable change in votes as a result of a promise of a gift is necessary to set aside the election. "The test, an objective one, is whether the conduct of a party to an election has the tendency to interfere with the employees' freedom of choice." *Cambridge Tool & Mfg. Co.*, 316 NLRB 716, 716 (1995).

Further, we do not rely on *Patient Care of Pennsylvania*, 360 NLRB No. 76 (2014), or *Polymers, Inc.*, 174 NLRB 282 (1969), enf'd. 414 F.2d 999 (2d Cir. 1969), cert. denied 396 U.S. 1010 (1970), cited by the hearing officer. Both cases concern Board agent conduct during an election and are inapposite.

Member Miscimarra also does not rely on any suggestion in the hearing officer's report that the Board will consider any pre-petition conduct so long as it is "sufficiently serious to have affected the results of the election." Instead, he adheres to the rule that the Board will consider conduct as objectionable during the "critical period" between the filing of the petition and the election, see *Ideal Electric & Mfg. Co.*, 134 NLRB 1275 (1961), subject to the exceptions set out in *Dresser Industries*, 242 NLRB 74 (1979), *NLRB v. Savair Mfg. Co.*, 414 U.S. 270 (1973), and *Harborside Healthcare, Inc.*, 343 NLRB 906 (2004).

IT IS CERTIFIED that a majority of the valid ballots have been cast for National Association of Government Employees affiliated with Service Employees International Union, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time Emergency Medical Technicians (EMTs), Advanced EMTs, EMT – Paramedics (EMT-P or Paramedics), Assistant Supervisors, Customer Service Representatives, Couriers, Vehicle Supply Technicians, Logistics Coordinators, and Schedulers working in and out of the Employer’s Alameda County facilities and operations; excluding IT employees, mechanics, confidential employees, professional employees, office clerical employees, guards, and supervisors as defined in the Act.

Dated, Washington, D.C., October 28, 2015.

Mark Gaston Pearce, Chairman

Philip A. Miscimarra, Member

Kent Y. Hirozawa, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD